

BEFORE THE STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL
BOARD

Elizabeth Miller Jennings, Sr. Staff Counsel
State Water Resources Control Board
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October 24, 2006

Dear Ms. Jennings and State Water Resources Control Board:

1. Name, Address, e-mail and telephone number of Petitioner:

Carlos Quilez
1630 River Bar Road
Fortuna, CA 95540
cqjess@sbcglobal.net
707 832 6651

**2. The action of the California Regional Water Quality Control Board
North Coast Region being petitioned:**

Subject: Issuance of Clean Water Act Section 401 Certification
(Water Quality Certification) for Van Duzen River Ranch
Streambank Protection Activities

File: Noble, Jack - Van Duzen River Streambank Protection
Project WDID No. 1B06078WNHU

3. Date on Which Regional Board Acted:

September 28, 2006

4. Statement of Reasons the action was improper:

- a) The Regional Water Quality Control Board (RWB) did not adequately respond to concerns raised by neighbors of the project. Also, RWB did not adequately investigate the issues raised by myself and others.
- b) The Van Duzen River is designated Wild and Scenic/Wild and Recreational. The primary objectives of the Wild and Scenic River Acts are to preserve the free flow of Component Rivers and to protect the outstandingly remarkable values of the river that led to their designation.

- c) Mr. Noble started the so-called hard point installation way before the commencement date of August 15, 2006. RWB issued an after-the-fact permit.
- d) The RWB did not adequately investigate the total project scope and it's possible effects on upstream and downstream properties.
- e) Mr. Noble is known to have operated heavy equipment in the main channel of the Van Duzen River.
- f) The 401 certification was issued (#04-0047) under an expired 1600 Department of Fish and Game permit. Mr. Noble did not have the requisite permit between 12/31/05 and August 14, 2006. Mr. Noble nonetheless continued to install hard points some two miles downstream of the project as described and approved by RWB.
- g) There has been no proper and complete engineering of this project. Mr. Prat of RWB signed off on it as if he was Mr. Noble's engineer or agent. There is no engineering report and/or study that describes this project and it's possible effects to upstream and downstream properties.
- h) The Environmental Impact Report this project is based on, both the 1997 EIR and the 2000 EIR are for commercial gravel extraction. There has been no EIR for the addition of material to the bank of the river, only for the extraction of gravel.
- g) The project description is wrong. The project is described as 1 and 1/2 miles upstream and downstream of Yager Creek. A portion of the project is more like three miles downstream of Yager Creek.

5. How the petitioner is aggrieved:

I own property between both of the areas Mr. Noble is fortifying. Over the years my property has seen a great deal of erosion, I believe, because of the hardpoints Mr. Noble built on his ranch. There are several property owners between the reinforced areas. Mr. Noble's bank alteration activities, I believe, have caused the expansion of an overflow channel between the areas he reinforced and erosion of these properties in-between the hard points. As there has been no Environmental Impact Report done on adding concrete debris to the bank of the river, the result of this project and it's effect on other people's property can not be predicted.

Mr. Noble frequently uses a road that he has built on the bank of the Van Duzen to ferry gravel, concrete debris, and move heavy equipment. As the Van Duzen is a Wild and Scenic River, Mr. Noble has created eye sore, heavy industrial traffic, noise and nuisance, on a river designated to be enjoyed by the public.

Mr. Noble is already in violation of his new 401 Certification.

- a) According to the project description " Hard points will only be installed within the areas shown in the application." As pointed out above, hard points

have been installed some three miles downstream of the proposed site.

- b) The hard points installed in the downstream area do not conform to the description of hard points on the permit.
- c) Best Management Practices preclude the use of heavy equipment in the channel.
- d) There is visible oil/grease on the bank of the river where heavy equipment was used.
- e) "Heavy equipment shall not enter the wet portion of the stream channel". In fact heavy equipment has already been used in the wet portion of the channel.

6. The action the petitioner requests the State Water Board to take:

This project should be denied and revoked. A true study needs to be performed to find out if it will do more harm than good for just one man's property.

This project is not consistent with Federal and State law for Wild and Scenic Rivers and Essential Fish Habitat for currently listed ESU & ESA Coho, Chinook and Steelhead salmon in Humboldt County.

This project should be subject to preparation of an environmental impact statement or report for full analysis requirements as set forth:

Clean Water Act (CWA)
National Environmental Policy Act (NEPA)
National Wild & Scenic Rivers Acts Section 2(a)(ii), Section 7, Section 10
National Park Service, NOAA Fisheries, US Fish & Wildlife Service
California State Wild & Scenic Rivers Act section 5093.50-5093.70
California Department of Fish and Game Endangered Species Acts (CESA)
California Environmental Quality Act (CEQA)

State agencies such as RWQ are obligated and required under the State's Wild & Scenic River Act (sec. 5093.56) to exercise their power in a manner that protects the free flowing character and extraordinary values of the Van Duzen.

How did RWQ certify that this project would not harm the rivers free flowing character and extraordinary anadromous fishery?

7. Statement of points and authorities for any legal issues raised in the petition, including citations to documents or hearing transcripts that are referred to:

California Wild & Scenic Rivers Act Public Resources code Sec. 5093.50 et seq
National Wild & Scenic Rivers Act Public Law 90-542; 16 U.S.C. 1271-1287
California Environmental Quality Act Public Resources Code Section 21000 et seq

8. Statement that copies of the petition have been sent to the Regional Water Board and to the discharger, if different from the petitioner:

A copy of this petition has been sent to:

North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, Ca 95403
Attn: Diana Henriouille

Mr. Jack Noble and Mrs. Mary Noble
P.O. Box 365
Fortuna, CA 95540

9. A statement that the issues raised in the petition were presented to the regional board before the regional board acted, or an explanation of why the petitioner could not raise those objections before the regional board:

A copy of the public comment letter dated August 3, 2006, sent to RWQ is included.

Thank you very much for your time and attention to this matter,

Carlos Quilez